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10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12 SAN FRANCISCO DIVISION

13 UNITED STATES OF AMERICA,) CR No. 09-0989 MHP
14 Plaintiff,)
15 v.)
16 JOHN GIMBEL,)
17 Defendant.)
18 _____)
19

**STIPULATION AND [PROPOSED]
ORDER CHANGING HEARING DATE**

20 On July 15, 2010, pursuant to the parties' stipulation, the Court ordered the hearing on
21 the defendant's motion to dismiss be changed to July 29, 2010. Since that time, counsel for the
22 government has become unavailable on July 29 due to a family emergency. For this reason, the
23 parties respectfully request that the date for the hearing be moved to August 6, 2010, at 10:00
24 a.m.

25 The Court has previously ordered that time be excluded from any calculation under the
26 Speedy Trial Act based on effective preparation of counsel. *See* 18 U.S.C. § 3161(h)(7)(B)(iv).
27 The parties request that this additional period of time be excluded for the same basis, in addition
28 to its exclusion through the filing of the defendant's motion to dismiss. *See* 18 U.S.C. §

STIPULATION AND [PROPOSED] ORDER CHANGING HEARING DATE
CR 09-0989 MHP

1 3161(h)(1)(D).

2
3 SO STIPULATED:

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5 JOSEPH P. RUSSONIELLO
United States Attorney

6 DATED: July 22, 2010

7
8 /s/
9 KEVIN J. BARRY
Assistant United States Attorney

10 DATED: July 22, 2010

11
12 /s/
13 MICHAEL STEPANIAN
14 Attorney for Defendant John Gimbel

15
16 [PROPOSED] ORDER

17 For good cause shown, the Court hereby moves the hearing date for the defendant's
18 motion to dismiss from July 29, 2010 to August 6, 2010, at 10:00 a.m. The Court finds that an
19 exclusion of the time between July 29, 2010 and August 6, 2010 from any limits applicable
20 under 18 U.S.C. § 3161 is warranted, both through the filing of the defendant's motion and for
21 effective preparation of counsel. The Court finds that the ends of justice served by granting such
22 an exclusion of time outweigh the best interests of the public and the defendant in a speedy trial.
23 18 U.S.C. § 3161(h)(7)(A). A failure to grant the requested exclusion of time would deny
24 counsel for the defendant and for the government the reasonable time necessary for effective
25 preparation, taking into account the exercise of due diligence, and would result in a miscarriage
26 of justice. 18 U.S.C. §3161(h)(7)(B)(iv).

27
28 **IT IS SO ORDERED.**

Dated: 7/23/2010

